

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

JAMES SUDBERRY,
Plaintiff,

vs.

WARDEN MORGAN, et al.,
Defendants.

Case No. 1:14-cv-163

Barrett, J.
Bowman, M.J.

**REPORT AND
RECOMMENDATION**

Plaintiff, an inmate at the Southern Ohio Correctional Facility, has filed a prisoner civil rights complaint in this Court. (Doc. 1). However, plaintiff failed to pay the filing fee in this action and is prohibited from proceeding *in forma pauperis* under 28 U.S.C. § 1915(g). On March 17, 2014, the undersigned issued a Report and Recommendation recommending that plaintiff's motion to proceed *in forma pauperis* be denied and that he be ordered to pay the full \$400 filing fee within thirty (30) days. (Doc. 2). On February 10, 2015, the Court adopted the Report and Recommendation and ordered plaintiff to pay the full filing fee within thirty (30) days. (Doc. 9). Plaintiff was advised that if he failed to comply with the Order this case would be dismissed. (*Id.* at 2).

Plaintiff subsequently filed an objection to the Court's Order. (Doc. 10). The Court construed the filing as motion for reconsideration, which the Court denied on May 15, 2015. (Doc. 11). Plaintiff was given thirty (30) days from May 15, 2015 to pay the full filing fee. Plaintiff was again notified that his failure to pay the filing fee within thirty days would result in the dismissal of this action. (*Id.* at 2).

To date, more than thirty (30) days after the Court's May 15, 2015 Order, plaintiff has failed to pay the filing fee.

“District courts have the inherent power to sua sponte dismiss civil actions for want of prosecution to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.” *Link v. Wabash R.R.*, 370 U.S. 626, 630-631 (1962). *See also Jourdan v. Jabe*, 951 F.2d 108, 109 (6th Cir. 1991). Failure of a party to respond to an order of the court warrants invocation of the Court’s inherent power. *See* Fed. R. Civ. P. 41(b). Accordingly, this case should be dismissed for plaintiff’s failure to pay the Court’s \$400.00 filing fee. *In re Alea*, 286 F.3d at 382.

It is therefore **RECOMMENDED** that this matter be **DISMISSED** for lack of prosecution.

IT IS SO RECOMMENDED.

s/ Stephanie K. Bowman
Stephanie K. Bowman
United States Magistrate Judge

**UNITED STATES DISTRICT COURT
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JAMES SUDBERRY,
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Case No. 1:15-cv-163

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NOTICE

Pursuant to Fed. R. Civ. P. 72(b), **WITHIN 14 DAYS** after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. This period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections **WITHIN 14 DAYS** after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).